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# **LAFCO SERVICE REVIEW GUIDELINES**

- **ISSUES AND CONCERNS**
- **PRELIMINARY DRAFT  
OUTLINE**

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## **Issues and Concerns**

### **I. Background and Overview.**

#### **A. Background.**

Local Agency Formation Commissions (LAFCOs) are quasi-legislative local agencies created in 1963 to assist the state in encouraging the orderly development and formation of local agencies. In the 1960s, California was experiencing a period of explosive growth. Some local agencies were creating new cities, or expanding existing cities, in an inefficient manner. A number of new or expanded cities had such irregular boundaries that service provision to some areas was infeasible. Numerous special districts were being formed to serve small or difficult to serve areas leading to inefficient or expensive service provision.

Farmers and others were also concerned about the unprecedented loss of productive farmland particularly in Southern California. To address this concern, LAFCOs were created to act, where appropriate, to minimize the effects of unchecked urban sprawl upon finite prime agricultural and open space land resources. To accomplish this goal, LAFCOs needed to balance a number of factors including the need to provide the infrastructure for healthy growth with the need to conserve the state's precious resources.

#### **B. LAFCO's Fundamental Purpose and Role.**

There is a LAFCO in each California County. Their decisions are guided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which contains the following major policy elements (Government Code Sections 56000, 56001 and 56301):

1. To encourage orderly growth and development which are essential to the social, fiscal, and economic well being of the state;
2. To promote orderly development by encouraging the logical formation and determination of boundaries and working to provide housing for families of all incomes;
3. To discourage urban sprawl;
4. To preserve open-space and prime agricultural lands by guiding development in a manner that minimizes resource loss;
5. To exercise its authority to ensure that affected populations receive efficient governmental services; To promote logical formation and boundary modifications that direct the burdens and benefits of additional

growth to those local agencies that are best suited to provide necessary services and housing;

6. To make studies and obtain and furnish information which will contribute to the logical and reasonable development of local agencies and to shape their development so as to advantageously provide for the present and future needs of each county and its communities;
7. To establish priorities by assessing and balancing total community services needs with financial resources available to secure and provide community services and to encourage government structures that reflect local circumstances, conditions and financial resources; and
8. To determine whether new or existing agencies can feasibly provide needed services in a more efficient or accountable manner and, where deemed necessary, consider reorganization with other single purpose agencies that provide related services.

In order to carry out these legislative policies, LAFCO has the power to conduct studies, approve or disapprove applications, modify boundaries of a proposal, and impose reasonable terms and conditions on approval. However, LAFCO may not exercise direct land use authority. When considering a proposed project, LAFCO is expected to weigh, balance, deliberate and set forth the facts and findings regarding the specific action taken.

Among the proposals and options generally considered by LAFCOs are incorporations, district formations, annexations to, or detachments from, a city or district, special reorganizations (simultaneous detachment of an area from an existing city and creation of a new city), disincorporations, district dissolutions, consolidations of cities or special districts, mergers or establishment of subsidiary districts, authorizations for a special district to exercise latent powers, extensions of the area over which a latent power is exercised, reorganizations involving two or more of the above-listed changes of organization, and adoptions, updates and amendments to the Spheres of Influence (SOI) of cities and districts.

A more detailed description of LAFCO, its composition and functions is available at the California Association of LAFCOs' website at <http://www.calafco.org/>.

### **C. Factors to Be Considered by LAFCOs When Reviewing Changes of Organization and Reorganization.**

All proposals before LAFCO must be reviewed with consideration of a legislated list of factors (Section 56668). They are:

- a. Population; population density; land area and land use; per capita assessed evaluation; topography; natural boundaries and drainage basins;

proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent and incorporated areas, during the next ten years.

b. Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

c. Effect of the proposed action and of alternate actions, on adjacent areas, on mutual economic or social interests, and on the local government structure of the county.

d. Conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the open space conservation policies and priorities set forth in Section 56377.

e. Effect of the proposal on maintaining the physical and economic integrity of agricultural lands as defined by Section 56016.

f. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

g. Consistency with city or county general and specific plans.

h. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

i. The comments of any affected local agency.

j. The ability of the newly formed or receiving entity to provide the services, which are subject of the application to the area, including the sufficiency of revenues for such services following the proposed boundary change.

k. Timely availability of water supplies adequate for projected needs including, but not limited to, the projected needs as specified in Section 65352.5 (water supply coordination needs information).

l. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.

- m. Any information or comments from the landowner or owners.
- n. Any information relating to existing land use designations.
- o. If desired, the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (no new power vested) (Section 56668.5).

If a city detachment or district annexation other than a special reorganization is proposed, the following additional factors apply (Section 56668.3):

- a. Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed the district.
- b. Any resolution objecting to the action, which may be filed by an affected agency.

#### **D. Spheres of Influence.**

The power to consider and adopt Spheres of Influence Plans is perhaps the most important planning function given to LAFCOs by the state legislature. In Section 56425 of the Government Code, an SOI is defined as “a plan for the probable physical boundary and service area of a local agency or municipality as determined by the commission.” The CKH Act describes the function of a Sphere of Influence as an important tool for “planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities.”

Local governmental agencies, special service districts and municipalities must have an adopted Sphere of Influence boundary and territory that defines the probable boundary and service area of the agency. LAFCOs are required to “develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere (Section 56425, CKH).” In determining the SOI of each local agency, LAFCOs must consider and prepare a written statement of its determinations with respect to the following:

- “The present and planned land uses in the area.
- The present and probable need for public facilities and services in the area.



- The present capacity of public facilities and adequacy of public services, which the agency provides or is, authorized to provide.
- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.”

The commission may recommend governmental reorganizations for particular agencies in the county, using the spheres of influence as the basis for those recommendations. For any sphere of influence or a sphere of influence that includes a special district, the commission shall do all of the following:

- “Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.
- Establish the nature, location, and extent of any functions or classes of service provided by existing districts.
- Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the commission.”

Upon determination of an SOI, the commission is required to adopt the SOI, and review and update the SOI, as necessary, but no less than once every 5 years. The timetable for updates took effect on January 1<sup>st</sup> 2001. The reviews to be implemented with the service review guidelines are intended to assist with the SOI information gathering, evaluation and approval processes. They may also be used by all local and regional agencies as tools for planning and improving public service provision to California communities.

## **E. Requirements for Service Reviews.**

In 1997, the State Legislature enacted AB 1484, establishing the Commission on Local Governance for the 21<sup>st</sup> century (CLG). The members of the CLG were appointed by the Governor and represented a broad spectrum of constituent groups and perspectives including counties, cities, special districts, educators, industry, and elected officials. “The Commission was asked to assess governance issues and make appropriate recommendations, directing special attention to the Cortese-Knox Local Government Reorganization Act of 1985, the 57 Local Agency Formation Commissions (LAFCOs) governed by the Act, and citizen participation in local government (GWB, p. ES-1).”

The results of those efforts were published in *Growth Within Bounds* (GWB), which was published in January 2000. In GWB, the Commission reported that a LAFCO’s legislated:

Directives imply that each LAFCO has comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider. Although some LAFCOs may have access to such essentials, many do not, and the Cortese-Knox Act offers no mechanism for assisting and encouraging them to gather the basic necessary information. The Commission believes that such provision should be added to the statute.

Information on public service capacity could be gathered as part of the implementation of a new requirement for periodic service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and the cities in the region. The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers. LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews (GWB, pp. 98-99).

The State Legislature recognized the validity of the Commission's findings and codified a tool that could be used to collect information and evaluate service provision from a broader perspective. The tool for conducting service reviews is provided in Section 56430 of Government Code. Section 56430 requires "that in order to prepare and to update SOIs in accordance with section 56425, LAFCOs are required to conduct a service review of the municipal services provided in the county or other appropriate designated area. LAFCOs must include in the area designated for service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must prepare a written statement of its determination with respect to each of the following:

- (1) Infrastructure needs or deficiencies;
- (2) Growth and population projections for the affected area;
- (3) Financing constraints and opportunities;
- (4) Cost avoidance opportunities;
- (5) Opportunities for rate restructuring;
- (6) Opportunities for shared facilities;
- (7) Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
- (8) Evaluation of management efficiencies; and

(9) Local accountability and governance.

In conducting a service review, LAFCOs must comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. In addition, service reviews are to be conducted before, or in conjunction with, but no later than the time it is considering an action to establish (Section 56430, CKH)” or update an SOI pursuant to Sections 56425 or 56426.5. The CLG advised and recommended that: “A service review should not replace designations or updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres (GWB, p. 99).”

The Governor’s Office of Planning and Research has been charged with developing service review guidelines by July 1, 2001 to assist LAFCOs with this effort. This issue paper discusses some of the identified opportunities and challenges to be addressed during the development of service review guidelines.

## **II. Issues to Be Considered When Developing Service Review Guidelines.**

The preparers of the service review guidelines need to consider numerous issues including those discussed in this paper. Information contained herein was derived from a variety of sources and resources. These include independent research, interviews with stakeholders, meetings with constituent groups, and five working sessions held in Fresno, Orange and Sacramento Counties. At those sessions, more than eighty individuals representing LAFCOs, special districts, cities, counties, and consulting professionals and attorneys specializing in LAFCO issues, provided input using an electronic data collection system. The results of those meetings are included in Appendix A. Several key issues have emerged and are detailed in this section. They are:

### **A. Issue: Identification of Municipal Services Subject to Review.**

The CKH Act requires that service reviews cover the municipal services provided by the county or other appropriate area designated by the Commission. The references to what are considered municipal services, or services to be reviewed, vary in GWB. In the latter, different services are listed as municipal or municipal type in various tables. However, much of the variation appears to stem from the sources of information rather than any decisions about the definition of a municipal service.

In Table 2-4, city provided municipal services include: general administration, police and fire protection, flood control, roads, sanitation, libraries, and recreational facilities. On p.15, city/municipal services include police, fire, building inspection, local streets, drainage and lighting, transit, airports, harbors, solid waste, sewer, sometimes water and electricity, planning and zoning, parks recreation, libraries, and museums. Page 14 references County municipal-type

services including law enforcement, fire protection, parks, recreation programs, water, sewer, trash collection, and planning and building inspection. Page 16 refers to the full range of municipal functions provided by special districts, which causes them to sometimes serve as “town halls” in rural California. The report further references the existence of 54 categories of special districts. As previously mentioned, the CLG recommended that LAFCO collect information regarding all services provided.

During the working sessions in Sacramento, Fresno and Orange County, participants brainstormed the meaning of the term “municipal services.” Numerous definitions were provided. However, a common theme of self or local determination of what constitutes a municipal service emerged. Definitions that the group felt were most applicable included:

- What cities and others decide they should be;
- Any service authorized to be provided by a city or a special district that is subject to LAFCO and for which LAFCO must adopt a sphere of influence; and
- The full range of services that an agency provides or is authorized to provide.

There were strong objections to the inclusion of private provided services.

A group of special district representatives was polled in early May. They were asked to define the term “Municipal Services.” As with the other groups, answers varied. However, several suggested that any service that a Community Service District is enabled to perform pursuant to Section 61600 would be a municipal service. A list of those services is attached as Exhibit 1. The service review guidelines need to include a definition of “municipal services” that clarifies the services to be reviewed.

## **B. Issue: Limited Public Agency Staffing and Financial Resources.**

In interviews, meetings and working sessions, commenters expressed concerns regarding the availability of the substantial amount of public agency staff or financial resources needed to complete service reviews. In GWB, the CLG reported that both independent and dependent LAFCOs already have limited funding and “protected” staff/staff time to manage existing workloads. Fifty-seven LAFCOs reported a total of 66 full time equivalent employees. Individual LAFCO Budgets ranged from \$1,000 to more than \$650,000 with thirty LAFCOs having budgets of less than \$50,000. The combined budgets for all LAFCOs totaled less than \$8 million.

Many cities and rural counties also have limited staff and strained budgets. Special districts that cannot assess user fees and are dependent on unfavorable property tax allocations may have difficulty diverting resources to comprehensive

service reviews. All service providers expressed some concerns about a State Mandate that appears to be unfunded. Some noted that the extension of LAFCO funding responsibility to cities and special districts, where applicable, was intended to provide a new source of funding. However, others felt that the multi-agency funding approach only caused public agencies to share existing scarce resources rather than providing new resources.

The lack of adequate resources has the potential to undermine the timely and effective implementation of Section 56430. The service review guidelines can offer some options for seeking or sharing resources within existing law. However, it is likely that this issue may not be resolved without the action and cooperation of stakeholders and the State Legislature.

### **C. Issue: The Roles of LAFCO and Other Stakeholders.**

In GWB, the CLG reported that “California’s challenge in the 21<sup>st</sup> century will be to manage its inevitable growth in such a way that irreplaceable resources, government services, and quality of life are maintained (p. 9).” The CLG was clearly looking for, and saw in the LAFCO, an entity that could serve as an intermediary for the state in addressing some growth challenges. However, the intermediary role was not viewed as one, which wielded land use authority, or directly oversaw the provision of municipal services.

Rather, LAFCO could initiate reviews, convene stakeholders and facilitate collaborative efforts to address issues and challenges. LAFCO would also be charged with making the tough decisions about the organization and reorganization of some service structures. One objective was to have LAFCOs encourage agencies to work cooperatively. To the extent possible, they would work to evaluate existing and future service needs and determine what structures were needed to support healthy growth in the most cost effective and efficient manner while preserving important agricultural and open space resources. In this environment, cooperatively developed service reviews would enable LAFCO and service providers to more effectively accomplish their shared public service objectives.

Many stakeholders expressed concerns regarding the appropriate role of LAFCO both in gathering information and in interpreting it. Some felt that the service review process would not be successful if LAFCOs could not bring all the stakeholders together in a collaborative and cooperative process. Participants in working sessions suggested that some agencies might resist productive participation in service reviews, as they may be unwilling to invest their limited resources in the preparation of the service review studies. Others mentioned that some service providers might feel uncomfortable providing the level of detail that might be required, or might resist exposing sensitive issues to public scrutiny.

In some cases, some agencies might not be able to respond in a productive fashion without receiving help from other agencies. Others might inundate LAFCO offices with volumes of information causing them to sift through reports looking for pertinent information. Commenters noted that there could be competing or conflicting studies to analyze and that there would be a need to evaluate and resolve such conflicts.

Additionally, a sufficient level of trust may need to be established before some organizations will request help or others might see the advantages of bearing some of the financial burden of agencies with fewer discretionary resources. Another concern was how to engage cities in the preparation of service reviews involving areas beyond their city limits or sphere of influence, particularly where LAFCOs are viewed as unduly influenced by a county.

Another issue relates to the inability of LAFCO staff members to possess necessary expertise in all fields pertinent to all classes and functions of service provision. There is an expressed need to get service providers to assist LAFCO in determining what types of information needs to be gathered and in what form, what the industry standards are for a particular service, and what information is already available.

The service review guidelines may be able to assist with resolution of some of these issues by providing steps for fostering communication among all affected parties. Steps could include guidance on project scoping, consultation and collaborative processes designed to bring all stakeholders to the table. LAFCOs cannot feasibly become technical experts on every service to be reviewed. Guidance for utilizing consultant and other professional assistance could be provided in the guidelines. Suggestions for utilizing the technical expertise of stakeholders and accessing other available resources such as Councils of Governments, Airport Land Use Commissions, the State Reclamation Board and Housing and Community Development Department, and the Public Utilities Commission could also be helpful.

It is unlikely that service review guidelines can provide specific detailed standards for reviewing each type of service provided in the State of California due to the enormity of such an effort. Even if provided, such standards might not provide the desired level of flexibility to address all of the special cases in the state. The guidelines may provide an orderly framework and guidance for conducting reviews but the success of reviews may rely on the ability of each LAFCO to successfully coordinate and oversee a collaborative multi-agency and sometimes multi-LAFCO effort.

#### **D. Issue: Managing the Information Gathering Process.**

There are some differences of opinion regarding the most appropriate process for compilation and review of data needed to conduct service reviews. During

working sessions, participants voted on various approaches that could be considered. The majority of participants agreed that LAFCOs should ultimately review the information and make independent decisions. However, many participants felt that LAFCOs did not possess adequate staff capabilities, in terms of numbers or areas of expertise, to adequately compile and analyze technical data pertaining to every type of service. Others believed that it made sense to use existing reports, master service plans, General Plans, environmental impact reports, capital improvement plans, and other sources of information to the extent feasible rather than to duplicate efforts.

Most agreed that flexibility is needed in information gathering. Less sophisticated LAFCOs, districts or cities may be more likely to need the services of a consultant. While more sophisticated or better financed LAFCOs and service providers may have the staff expertise to conduct many service reviews in-house. There may also be cases where individual service providers are known to be more protective of needed data or are less skilled in data compilation, budgeting, or record keeping. In these cases, LAFCO may need to assume a more proactive role in fostering cooperation and/or assuming the lead role in all service review processing steps.

The guidelines need to provide a process overview for the integration of various information resources and adopted plans, especially General Plans. The latter would include methods for ensuring that all affected agencies are aware of, and can plan for, the service requirements being triggered by land use and other decisions.

The guidelines should instruct on options for information compilation. Pursuant to the CKH Act, any option must ensure that each LAFCO makes independent determinations based on data that are correct and up-to-date. The guidelines could suggest a process to enable less sophisticated or experienced LAFCOs to purchase temporary mentoring, scoping or review preparation services from more experienced LAFCOs. The process might allow LAFCOs experienced with regional reviews of services, such as water, fire, or sanitation to be reimbursed for assisting other LAFCOs. The intent would be to permit LAFCO staffs to gain more knowledge of issues, provide support to small LAFCOs, and avoid excessive consultant fees.

#### **E. Issue: The Wide Range of Local Conditions and Circumstances and Sizable Number of Services Types.**

GWB reported 54 categories of services provided by special districts alone. Most commenters could describe cases in their service area or county where local conditions, circumstances, or unique service arrangements would present unusual challenges when conducting service reviews. Even where there appeared to be agreement on a universal truth, situation, condition, or circumstance, someone would find an exception to the rule. For example, almost

everyone was certain that public agencies never enforce Covenants, Conditions and Restrictions. All were surprised to find that this is not the case.

The lesson to be derived from the lack of a universal template for service provision, organizational structure or service style in California is that the guidelines must be flexible. In Orange County, session participants achieved consensus around the need for service review guidelines to be flexible, simple to read and use, unambiguous and user friendly. They also agreed that it would be difficult to meet the needs of those who desired or needed a step-by-step programmed approach while producing a document that was responsive to all cases and circumstances.

#### **F. Issue: Class of Service and the Nature and Type of Information to be Provided by Class.**

When preparing a service review, a LAFCO may need to review most service classes and determine the depth of analysis required to meet service review objectives. LAFCOs may decide whether to review a single service at a time or cluster several services into a single service review. The appropriate focus would be on the service rather than individual agencies unless there is only one provider.

In the working sessions in Fresno, Sacramento, and Orange County, participants were asked to review a list of services provided by special districts and cities in California. They were then asked to add any other services provided in their county. Participants were then asked to judge, based on their local conditions and circumstances, what services might require more or less substantial review.

Water, fire, and sanitation services were the services most frequently identified as needing substantial detailed technical review. Cemetery, library, and landscape maintenance were among those most often identified as needing little or no review. The level of review recommended appeared to correspond to some extent to the number of substantial functions of service provided within a particular service class. The sanitation service class, for example, may include numerous functions such as water treatment, composting, water reclamation and redistribution, wetland restoration, public education, sewage collection, and other functions. It is also infrastructure intensive. A cemetery service class, on the other hand, requires minimum infrastructure and may have few extremely technical functions that need to be evaluated.

Even though there seemed to be some consistency in the review approaches suggested for many services, exceptions to the rule emerged when discussions of a particular service ensued. Also, many commented that the issues, needs and characteristics of urban, rural, and emerging counties created a difference in the significance of, emphasis on, and approaches to, addressing and evaluating different service related issues. For these and other reasons, it is likely that the



guidelines may reasonably provide general guidance on approaches for determining the level and nature of information to be collected and reviewed. It may also provide examples and information questionnaires. However, it is unlikely that a usable document can individually address the sizable number of service classes, or the specific circumstances in which those classes of services are delivered. The need to provide enough guidance, yet allow flexibility, is the greatest challenge in guideline preparation.

#### **G. Issue: Use of Service Reviews.**

The applicability and ultimate use of service reviews was an issue raised in interviews and working sessions. Many participants, particularly LAFCO Executive Officers, viewed the service review as an important and necessary tool to be used first by LAFCOs and then by service providers in improving service conditions throughout California. Some individuals and constituencies expressed appreciation for the usefulness of up-to-date information. However, many expressed concerns about the potential for LAFCO initiated reorganizations that might result from the service reviews.

It is clear from section 56430 that the service reviews begin with an evaluation of existing and future circumstances and may lead to consideration of different government structure options. LAFCO is required, for example, to evaluate the "advantages and disadvantages of consolidation or reorganization of service providers." The latter requirement is not new.

Section 56820.5 of the CKH Act authorizes LAFCOs to adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. The regulations may do any of the following:

- Classify the various types of service which customarily are, or can be, provided within a single function of a special district. A class may be based on the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.
- Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.
- Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

- Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district.
- The regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the commission, pursuant to this section, has established is currently being provided by that special district.

The service review process does not require that LAFCO initiate any changes of organization. It only requires that LAFCO make determinations regarding the benefits or disadvantages of changes in government structure. It appears that the existence of the new service review requirement is leading to a heightened awareness, and in some cases, concern about LAFCO's existing powers.

It does not seem appropriate for the guidelines to include recommendations constraining the specific determinations that a LAFCO should make. Rather, the guidelines could provide service review design, information collection and process strategies. Effective strategies should permit LAFCOs to work with constituent agencies and the public to make the most informed decisions possible. The legislature deemed that those decisions could be service review determinations, special study findings, SOI updates, or various changes of organization or reorganization.

#### **H. Issue: Identification of the Geographic Area.**

The CKH requires that LAFCOs look at the bigger picture of service provision rather than a single proposal or individual service provider. To comply with this directive, LAFCO will need to:

- Select a service for review;
- Determine who provides, uses and is affected by it;
- Determine what topographic features, tax zones, resources and infrastructure, among other factors, link a service to a particular location or locations that could be studied; and
- Map or otherwise identify the area for study.

Many commenters expressed the desire for assistance with identification of the geographic area to be studied. Within the state, there are numerous combinations of services, types of service regions or areas already identified in counties, types of geologic zones and geography, natural resource locations, and other factors. There are also districts that cross county boundaries and/or provide regional services. In some cases, features, such as watersheds or

mountain ridges, could most appropriately be used to define service review study boundaries.

It would be unrealistic for the guidelines to attempt to provide a specific method for identifying the appropriate geographic area to be studied in every case. It might be most appropriate for the guidelines to provide examples of methods for identifying service review study boundaries.

## **I. Issue: Cross-county or Regional Service Reviews.**

Some districts and resource areas cross county boundaries. The need to coordinate with multiple counties and multiple LAFCOs was seen as a potential stumbling block to service reviews. The CKH Act (Sections 56387 and 56388) currently contains guidance for determining which LAFCO should assume the principal role in an organization or reorganization. The sections read as follows:

Except as otherwise provided in Section 56388, if any district is, or as a result of a proposed change of organization or reorganization would be, located in more than one county, the commission of the principal county shall have exclusive jurisdiction over the matters authorized and required by this part (Section 56387).

If any proposal involves a district which is, or as a result of a proposed change of organization or reorganization would be, located in more than one county, exclusive jurisdiction for that proposal over the matters authorized and required by this part may be vested in the commission of a county, other than the principal county, in which territory of the district is located or is proposed to be located if all of the following occur:

(a) The commission of the principal county agrees to having the exclusive jurisdiction vested in the commission of another county.

(b) The commission of the principal county designates the commission of another county which shall assume exclusive jurisdiction.

(c) The commission of the county so designated agrees to assume exclusive jurisdiction (Section 56388).

It is unclear whether this section is intended to apply to special studies or service reviews. In addition, some commenters suggested that the conduct of service reviews might be more effective if LAFCOs develop joint agreements for cooperatively conducting reviews. Some LAFCOs, such as the Nevada and Placer, have adopted joint powers agreements to evaluate proposals that cross County boundaries. It may be appropriate for the service review guidelines to include guidance for developing functional agreements among LAFCOs when more than one county may be affected by service reviews. Such agreements

could be especially beneficial when more than two counties are involved, and when residents of more than one county may be substantially affected by the results of a service review.

GWB suggested that “these agreements (Nevada/Placer and Amador/Contra Costa) allow an expedited determination of which LAFCO will assume jurisdiction over a proposal and may thereby avert unnecessary hearings or delays. Perhaps as important, they facilitate dialogue among adjoining LAFCOs, thereby providing more comprehensive guidance to applicants, ensuring consistency in the decision-making process of participating LAFCOs, and developing a regional perspective on issues (GWB, p. 79).” The CLG recommended that “LAFCOs be authorized to enter into agreements with the LAFCOs of adjoining counties for the purpose of determining procedures for consideration of matters concerning multi-county districts (GWB, p. 79).” No specific change was enacted by the Legislature.

#### **J. Issue: Overlapping Jurisdictions.**

Overlapping jurisdictions, and/or duplication of services, particularly between city and special district spheres of influence present some unique problems that will need to be addressed in the preparation of a service review. It is anticipated that LAFCO could help smooth service review and annexation processes by coordinating all jurisdictions. The objective would be to identify common goals and objectives and diffuse issues that foster competition rather than cooperation. Some methods for resolving conflicts, particularly when jurisdictions overlap, could be included in the guidelines.

#### **K. Issue: The Integration of Privately Provided Services.**

The CKH does not enable LAFCO to require that private service providers submit service review or other information. It does require that all public agencies do so. The CKH does provide LAFCO with the ability to receive a review of public and private service providers' capabilities and existing or proposed rate structures when a public agency proposes to provide gas or electric services.

Section 56131 states that:

The executive officer shall file with the Public Utilities Commission a certified copy of any proposal for a change of organization or reorganization which provides, as part of the change of organization or reorganization, that gas or electric service, as defined in subdivision (c) of Section 56129, be furnished by a district within any of the territory affected by the change organization or reorganization. The certified copy need not contain any signatures if the proposal is by petition. After that change of organization or reorganization has been ordered, the clerk of the district shall file with the Public Utilities Commission a certified copy of any ordinance, resolution, or

order made by the Board of Directors of a district proposing to furnish gas or electric service, as defined in subdivision (c) of Section 56129, within that territory. After that filing, the Public Utilities Commission shall cause an investigation to be made and may conduct any hearings in connection with the proposal. Upon completion of the investigation and not later than 90 days after the date of the filing, the Public Utilities Commission shall make a report to the commission stating whether, in the opinion of the Public Utilities Commission, the proposed service by the district within the territory will substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility. The Secretary of the Public Utilities Commission shall immediately file a certified copy of that report with the executive officer.

Although this section does not direct private service providers to submit information, it is likely to cause them to do so. In the spirit of competition, the provider will offer information, which explains how rates and services may be affected if the new provider is permitted to assume service provision.

It is difficult, in some cases, to evaluate issues without the voluntary participation of private providers. There are many cases where private and public service providers of the same service serve the same territory. There may also be cases where private service areas may create holes in a map designating a particular service, or in an analysis of such service. The guidelines cannot remedy this problem.

However, they can include creative ways for filling information gaps. For example, private service providers are required to provide counties with information needed to calculate franchise fees. The Public Utilities Commission gathers and assesses data on the operations and rate structures of certain private utilities. These and other pieces may provide valuable information for service reviews.

#### **L. Issue: Regionalism.**

The CLG recognized that an unprecedented current and anticipated growth could overwhelm California, its planning resources, service infrastructure and agriculture and open space lands. The CLG recommended that LAFCOs' powers be strengthened to help prevent urban sprawl and ensure that needed services are provided in an efficient and cost-effective manner. To accomplish this, LAFCOs would need to develop a regional perspective, which enabled it to view and understand larger growth issues.

Many commenters suggested that service reviews are intended to consider regionalism and regional growth issues. The CLG appeared to support that position. It recommended that "LAFCO must initiate periodic regional or sub regional service reviews, not less frequently than every five years to determine

whether local government services are adequate (GWB, p. ES-5).” The guidelines should provide an overview of the relationship between regional issues and service review guidelines.

#### **M. Issue: Focusing the Public Policy Debate.**

Various commenters expressed the need to keep service reviews, and potential related government structure changes, focused on their higher purpose or objectives. There was some disagreement upon the definition of that higher purpose. Some commenters warned that service quality needed to be a most important objective. The fear was that unit cost comparisons would not include consideration of service quality, budget constraints and other factors. Others felt that there should be an emphasis on cost efficiency, approaches to capture potentials for efficiency, streamlining and economies of scale opportunities. Others focused on ability to serve and planning for the future.

The CLG suggested that:

The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts. The commissioners believe that there clearly needs to be an ongoing examination of the efficiency of governmental services, and that LAFCO is the appropriate agency to oversee this review. Where district consolidations or absorption of district functions into general purpose local governments will improve efficiency or transparency of service delivery, they should be aggressively pursued. Consolidating districts solely for the sake of reducing their numbers, however, is a disservice to the citizens who desire the services provided (GWB, pp. 71-72).

It may be important for the guidelines to present the service review guidelines in the context of (1) LAFCOs larger mission and legislated intent; (2) the bigger picture or regional perspective needed to perceive and understand California's growth issues; and (3) the need to provide the highest quality services possible to the residents of the State of California.

#### **N. Issue: Evaluating the Nine Categories.**

Section 56430 requires LAFCO to make determinations with respect to:

- Infrastructure needs or deficiencies;
- Growth and population projections for the affected area;
- Financing constraints and opportunities;
- Cost avoidance opportunities;
- Opportunities for rate restructuring;
- Opportunities for shared facilities;

- Government structure options, including the advantages and disadvantages of consolidation or reorganization of service providers;
- Evaluation of management efficiencies; and
- Local accountability and governance.

The language contained in the nine factors triggered considerable confusion or irritation in working sessions and interviews. Commenters questioned, for example, the definition of “management efficiency” and expressed concerns about inconsistency in application of the term. In Orange County, session participants took the time to evaluate the word and decide what the legislature meant to accomplish with a review of management efficiency. The group generally agreed that the term should be examined in light of the following:

- The comparison of cost and services both internal and external with the most efficient provider getting the most done at the lowest cost. This includes an examination of service levels using industry standards and in relation to organizational structure, budget, costs, quality of service and number of employees; and
- An efficient organization has the ability to provide service in the future. The reviewer should ask if a provider has the capacity for planned and unplanned growth, the resources (fiscal, manpower, equipment) available to handle area needs, and adequate reserve accounts.

The term “rate restructuring” also caused concerns. The term was discussed in some interviews and with volunteers who stayed after the Orange County session to provide additional feedback. Commenters felt that the reviewer was meant to evaluate rates, fees or charges with the intent of focusing on ways to obtain the maximum value for the dollars spent and in the context of the quality of services desired and provided.

There could be opportunities for contextual comparisons of certain costs per unit among providers while looking for opportunities for improvements for all providers. A reviewer might examine the assumptions underlying rate development, look at market rates, and seek information helpful in determining effective adjustments. All of this evaluation would be accomplished with the intent of finding opportunities to provide the highest quality services in the most cost effective and efficient manner for all Californians.

Regarding growth and population projections: Commenters wanted to ensure that LAFCOs used the best available sources for population projections. The various Councils of Governments were the sources most frequently mentioned.

Overall, the nine categories may be viewed from two perspectives. The first is as a guide for required information collection. The second is as a guide for using the information. Is there an opportunity to save time and other resources? Is there a

deficiency that can be overcome? Are there opportunities to share facilities, manpower or other resources? How can the citizen be better served? What challenges will all service providers face in the future? Is there a plan to meet those challenges? Is there a need for reorganization? Are residents receiving the best services possible? Can they participate in decisions? Is the provider sharing information and accountable to them?

The CLG considered citizen participation key to the resolution of growth challenges in the 21<sup>st</sup> century. The Commission expected LAFCOs to broaden the involvement of citizens in its decision making process. Additional noticing and hearing requirements were recommended and adopted by the legislature.

The service review guidelines should be written to assist citizens, LAFCOs and local agencies with the information gathering and review process so that it is as easy to undertake as possible. The guidelines need to describe the type of information needed to answer tough questions about service provision in California. The guidelines need to provide some guidance and formats for evaluating that information. However, it may be inappropriate for the guidelines to be so technical or rigid that LAFCOs cannot render decisions based on local needs, circumstances and public will.

#### **O. Issue: Training.**

Although not an issue to be addressed in the guidelines, numerous interested parties recommended that training in the use of the guidelines and in skills needed to conduct service reviews is needed. Training should include:

- Collaboration and facilitation.
- The basics of budgets and budget analysis.
- LAFCO's broader mission.
- Using the guidelines.
- Developing and implementing joint agency agreements.
- On-line and other processing resources available



## **Preliminary Draft Outline for LAFCO Service Review Guidelines**

### **Detailed Table of Contents.**

The Table of Contents (TOC) will contain at least four levels of details. This approach enables the user to find needed sections and obtain at-a-glance process overviews.

#### **I. Introduction.**

This section will include an introduction to the contents and use of the document.

#### **II. Overview and Purpose of LAFCO Service Reviews and Guidelines.**

This section begins with an overview of the broader perspective and mandate of LAFCO that must be considered when rendering decisions on any project including service reviews. It continues with a description of the linkages among service reviews, spheres of influence updates and amendments, and decisions on organizations and reorganizations. A discussion of the legislated purpose of service reviews follows. Major sections include:

- A. Background on LAFCOs. (Creation, purpose, functions, factors to be considered)
- B. Linkages between service reviews and other LAFCO functions. (Special studies, SOI Update, SOI Amendment, organizations and reorganizations)
- C. Intent of Service Reviews. (Legislative intent, LAFCO's role, expected outcomes of the information gathering and evaluation processes.)
- D. Service Review Requirements.

Concerns have been expressed about the applicability of the service review guidelines to both Sphere of Influence updates and amendments, and the update requirement itself. There are also concerns that the guidelines could cause LAFCOs to overstep their legislated role and intrude into the appropriate operations and delivery role of the service provider.

#### **III. Definitions.**

This section will include definitions of key terminology.

#### **IV. Applicability.**

This section will include a description of the types of services, service providers, and projects to which service reviews are applicable or linked. There will also be guidance regarding the extent to which public and private service providers should or shall participate. Any inclusion of private service providers is likely to be controversial.

#### **V. Prioritizing Service Reviews.**

This section will include strategies for managing the service review workload.

#### **VI. Staging Service Reviews.**

The task of reviewing all identified municipal services is enormous. This section would include a process for eliminating unnecessary review while ensuring that legal requirements are met. The process, called staging, is a multi-level review process. Staging would not be recommended for those services that a LAFCO is reasonably certain need a substantial technical evaluation.

In a Stage 1 evaluation, services in an identified area would be broadly reviewed to identify issues, opportunities and challenges. If, after that review, LAFCO had the information needed to render informed service review determinations, the service review process would be completed. If not, or if changes in government structure were determined to be appropriate, the review would proceed to a more comprehensive Stage 2 information and evaluation step. Service reviews that could not be finalized after Stage 2 would proceed to Stage 3.

This section would include criteria, questionnaires and examples needed to conduct a staged service review.

#### **VII. Developing the Service Review Plan.**

##### **A. Project Initiation and Preliminary Planning.**

This section will include guidance on initial planning and project design elements such as:

- Review of LAFCO's charge.
- Identification of the service or combination of services to be reviewed.
- Preliminary identification of the appropriate area to study (region, sub region, zone, county, watershed, drainage basin, harbor).
- Identification and resolution of inter-LAFCO and multi-jurisdictional districts coordination issues.
- Integration with Spheres of Influence Amendments or Updates.
- Integration with regional and local plans and programs.

- Identification of potentials for funding, staffing, mentoring or consultant arrangements or options.
- Preliminary identification of affected agencies and other stakeholders.
- Identification and integration of affected and overlapping private service providers.
- Identification of sensitive issues and areas of concern (i.e., land use or economic issue such as base closures, deteriorating or missing infrastructure, economic downturns, growth and market forecasts, immediate financial effects on agencies, cost sharing and budgeting, advocacy issues, area-specific characteristics, known or anticipated rate and property tax payer concerns, regional issues, rural versus urban, suburban or emerging county needs and characteristics, and environmental, resource, or other issues, processes or constraints)
- Scoping issues relating to the nine factors.
- Preliminary paperwork and forms.
- Public notice or hearing responsibilities.

Examples will be included where helpful.

## **B. Consultations and External Project Scoping.**

This section will include a process for convening stakeholders to assist with issues identification, development of the service review design study and development of a stakeholder participation plan. One objective is to provide a structure for maximizing stakeholder involvement. Appropriate stakeholder roles could include participation in scoping studies and development of information collection strategies, and contributing to the refinement of preliminary plan data and strategies. Other objectives would be to provide guidance for:

- Building a collaborative working environment;
- Educating key players to the specific and higher goals and objectives of the project;
- Encouraging voluntary and maximum disclosure; and
- Obtaining objective technical assistance with technical assessments.

## **C. Integration with the California Environmental Quality Act.**

This section would include guidance on the applicability and integration of CEQA.

## **D. Design Study.**

This section would include guidance on the design and implementation of the service review study and evaluation. Guidance regarding the use of consultants, data and information gathering approaches and processes,

evaluation criteria, thresholds of significance, identifying opportunities and obstacles, developing recommendations and identifying project alternatives would be included.

### **1. Project Design.**

This section would include guidance on overall project design which could be used in developing scopes of work.

### **2. Information Gathering.**

This section would include guidance on:

- Information collection strategies and forms.
- Recommended sources. Whose data to use (i.e. for population, Council of Governments, Department of Finance, County)?
- Types of information to gather and use. (General Plans, Community Plans, Specific Plans, planning and service staff reports, CEQA documents, service providers' master services plans, capital improvement plans, development timelines, market studies, maps of infrastructure, facilities, resource locations, and description of relationship among them, records of previous consolidations or reorganizations, revenue sources [local, state, user fees, grants], data on number of employees, classes and levels of training, unions, organizational charts, growth and population projections, data assumptions, capacity [how much, expected absorption rates, how long will it last, plans/financing to augment if needed, criteria for planning, providing and extending services], gaps in service, record of service reliability, level of service being provided [units, response time, run data], budgets and financial reports, specific classes and functions of services provided and associated service levels)
- Applicable laws and standards. (Industry standards, enabling acts, etc.)
- Assisting service providers who are unable to retrieve or provide needed information.
- Strategies for obtaining comparable information or evaluating dissimilar information (apples versus oranges).

### **3. Evaluations.**

This section will include guidance for evaluating each of the nine factors for which determinations must be rendered. For example, when examining efficiency or stability, LAFCO could consider unit costs and associated level of service, budget reserves and deficits, underutilized or over committed infrastructure, equipment or personnel, training or

continuous improvement opportunities for employees, age and relevance of planning documents (SOI, General Plan, Master Services Plan, Capital Improvements Plan), integration with existing plans and programs, an adequate functional budget, deficits or reserves, adequate or substandard infrastructure, relationship of rates to costs of services provided by rate area, stability of revenue streams

Criteria and threshold information needed for determinations will be provided where possible. Examples for fiscal comparisons will also be included.

#### **E. Draft report and recommendations.**

This section would provide guidance on basics for report preparation including the following elements:

- 1. Draft Report.**
- 2. Distribution and Comment period.**
- 3. Final Report.**

#### **F. Draft Determinations.**

This section would provide guidance on format, priorities to help resolve competing interests and other appropriate elements of required determinations.

### **VIII. The Public Hearing Process.**

Some of the steps to be included in this section are:

- Public notice.
- Public hearings.
- Adoption of Determinations.
- Adoption of SOI update or amendment if applicable.
- Initiation of Organization or Reorganization proposals if applicable.
- Adoption of Resolutions with Findings.
- Reconsideration.

#### **Attachments and Appendices.**

Appropriate attachments could include:

- A list of references/contacts.
- A list of data bases – industry standards.

- Templates for information requests, Staging Questionnaires.
- Templates to support processes identified in the guidelines where appropriate.
- Process flowchart or checklist.
- A list of available on-line resources.
- Sample standards for District Formations, Consolidations, and other reorganizations.
- A list of related laws with some excerpts as appropriate.
- Some optional approaches or methodology for assessing information.
- Additional examples.

## **List of Acronyms**

CEQA - California Environmental Quality Act

CKH - Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

CLG - Commission on Local Governance for the 21<sup>st</sup> century

GWB - Growth Within Bounds

LAFCO - Local Agency Formation Commission

PUC - Public Utilities Commission

SOI - Sphere of Influence

TOC - Table of Contents

## **Exhibit 1 - COMMUNITY SERVICES DISTRICT FUNCTIONS (Section 61000 of the Government Code)**

- Supply inhabitants of the district with water for domestic, irrigation, sanitation, industrial, fire protection, and recreation use;
- Collection, treatment, or disposal of sewage, and waste and storm water;
- Collection or disposal of garbage or refuse matter;
- Protection against fire;
- Public recreation and parks, playgrounds, golf courses, etc.;
- Street lighting;
- Mosquito abatement;
- Police protection and other security services;
- Library buildings and library services;
- Street improvement, maintenance, and repair (subject to consent of governing body of city or county in which improvements are made);
- Construction and improvement of bridges, culverts, curbs, gutters, and drains (subject to the consent limitations of item above);
- Conversion of overhead electric and communications facilities to underground locations when such facilities are owned and operated by a "public utility" or "public agency, subject to consent of the public utility or public agency responsible for such facilities;
- Contract for ambulance service if a majority of the voters in the district voting in an election thereon, approve;
- Provide and maintain public airports and landing places for aerial traffic;
- Provide transportation services;
- Abate graffiti;
- Construct, maintain, and operate flood control facilities subject to the following conditions: (a) the facilities are not within the authority of another public agency, except that the public agency and the district are not precluded from entering into agreements for the district to provide those services and, (b) the governing body of the city or county in which the services are to be provided by the district has consented to the district providing those services; and

Establish improvement districts (61710).